

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WINE ENTHUSIAST, INC.,

Plaintiff and Counterclaim Defendant,

against

VINOTEMP INTERNATIONAL CORPORATION,

Defendant and Counterclaim Plaintiff.  
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No. 17 Civ. 6782 (DLC) (HP)

**JOINT DISPUTED CLAIM TERMS CHART**

Pursuant to Local Patent Rule 11 and the Case Management Schedule, Wine Enthusiast, Inc. (“Wine Enthusiast”) and Vinotemp International Corporation (“Vinotemp”), by and through their respective undersigned attorneys, submit the following Joint Disputed Claim Terms Chart listing the disputed claim terms and phrases, including each party’s proposed constructions, and cross-reference to each party’s identification of the related paragraph(s) of the invalidity and/or infringement contention(s) disclosures under Local Rules 6 and 7.

<b>Term To Be Construed in U.S. Patent 7,882,967</b>	<b>Wine Enthusiast Proposed Construction</b>	<b>Vinotemp Proposed Construction</b>
<b>indentation</b>  (Claims 1-4)	<p>“a bend, an arc, or a curve in a continuous solid wire or rod.”</p> <p><u>Intrinsic Evidence</u>: The 967 patent with particular reference to the following parts: abstract, Col. 2: 19-30, 52-67; Col. 3: 1-15, 19-56, 63-67; Col. 4: 1-3; Figs. 1-18; Claims 1-4</p> <p>Cross-reference to Wine Enthusiast’s Response to Infringement Contentions and Invalidity Contentions (“Wine Enthusiast Contentions”): pp. 2-5; Exh. A: A-1 through A-5; Exh. B: B-1 through B-12</p>	<p>The term “indentation” should be construed in accordance with its ordinary and customary meaning, which includes “a recess in a surface” (Merriam Webster’s Collegiate Dictionary) and “a part of a surface that curves inward” (Cambridge Dictionary)</p> <p>Cross-Reference to Vinotemp International Corporation’s Disclosure of Asserted Claims and Infringement Contentions, Exhibit A, Elements 1.2 &amp; 1.3, at pp 6-7.</p>
<b>mounting means</b>  (Claims 1, 5)	<p>“a plate as shown as element 30 in Figs. 1, 7, 9, 13, 16 17, and 18, a hook as shown as element 40 in Fig. 10, a mounting frame as shown as element 52 in Figs. 11 and 14, a small ball and keyhole slot as shown respectively in Figs. 3 and 12, and a screw as shown in Figs. 4 and 5; and equivalents of the foregoing under Section § 112(f).”</p> <p><u>Intrinsic Evidence</u>: The 967 patent with particular reference to the following parts: Col. 2: 23-26; Col. 3: 57-61; Col. 4: 4-18, 31-41; Figs. 1, 3, 4, 7, 9, 10, 11, 12, 13, 14, 16, 17; Claims: 1, 5</p> <p>Cross-reference to Wine Enthusiast Contentions: pp. 2-5; Exh. A: A-2, A-3, A-5; Exh. B: B-1 through B-12</p>	<p>The term “mounting means” should be construed in accordance with the specification, which defines “mounting means” as “virtually any means capable of mounting support arms to a wall or frame.”</p> <p>Cross-Reference to Vinotemp International Corporation’s Disclosure of Asserted Claims and Infringement Contentions, Exhibit A, Elements 1.5, at p. 8.</p>


<p><b>support means</b> (Claim 1)</p>	<p>“a pegboard, a wall, a frame, or a freestanding base pedestal; and equivalents of the foregoing under Section § 112(f).”</p> <p><u>Intrinsic Evidence:</u> The 967 patent with particular reference to the following parts: Col. 2: 23-30; Col. 4: 4-10, 24-30, 39-41; Fig. 15; claim 1</p> <p>Cross-reference to Wine Enthusiast Contentions: pp. 2-5; Exh. A: A-3, A-4; Exh. B: B-1 through B-12</p>	<p>The term “support means” should be construed in accordance with its ordinary and customary meaning. The verb “support” is defined as “to hold up or serve as a foundation or prop for.” (Merriam Webster’s Collegiate Dictionary).</p> <p>Cross-Reference to Vinotemp International Corporation’s Disclosure of Asserted Claims and Infringement Contentions, Exhibit A, Elements 1.6, at p. 9.</p>
<p><b>support arms can be disposed in two different positions</b> (Claim 1)</p>	<p>“Indefinite.”</p> <p><u>Intrinsic Evidence:</u> The 967 patent with particular reference to the following parts: Col. 2: 31-48; Col. 3: 63-67; Col. 4: 1-3; Figs. 17-18; Claim 1</p> <p>Cross-reference to Wine Enthusiast Contentions: pp. 2-6; Exh. A: A-4; Exh. B: B-1 through B-12</p>	<p>No construction necessary – the claim term should be construed in accordance with its plain and ordinary meaning.</p>

<p><b>vertical plate</b></p> <p>(Claim 5)</p>	<p>“a vertically-oriented flat, thin, rigid sheet of material.”</p> <p><u>Intrinsic Evidence:</u> The 967 patent with particular reference to the following parts: Col. 3: 57-61; Figs. 1, 9, 13; Claims 1, 5</p> <p><u>Extrinsic Evidence:</u> “Vertical” means “perpendicular to the plane of the horizon or to a primary axis.” (<a href="https://www.merriam-webster.com/dictionary/vertical">https://www.merriam-webster.com/dictionary/vertical</a>) “Plate” means “a smooth flat thin piece of material” (<a href="https://www.merriam-webster.com/dictionary/plate">https://www.merriam-webster.com/dictionary/plate</a>); “a thin, flat sheet or strip of metal or other material” (<a href="https://en.oxforddictionaries.com/definition/plate">https://en.oxforddictionaries.com/definition/plate</a>); “a thin, flat sheet or piece of metal or other material, especially of uniform thickness” (<a href="http://www.dictionary.com/browse/plate?s=t">http://www.dictionary.com/browse/plate?s=t</a>). <i>See</i> Ex. A.</p> <p>Cross-reference to Wine Enthusiast Contentions: pp. 2-5; Exh. A: A-5; Exh. B: B-5</p>	<p>No construction necessary – the claim term should be construed in accordance with its plain and ordinary meaning.</p>
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Dated: New York, New York  
August 24, 2018

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